

# IN THE MICHIGAN COURT OF APPEALS

## ORDER

Re: **Marquis Cars Inc v Manheim's Metro Detroit Auto Auction Inc**  
Docket No. **263534**  
L.C. No. **04-408997-CZ**

William C. Whitbeck, Chief Judge, acting under MCR 7.217(D)(2), orders:

The motion to file a reply to appellee's answer to the untimely motion to reinstate is  
**GRANTED.**

The untimely motion to reinstate this appeal is **DENIED**. This Court's order dated September 9, 2005, warned attorney James C. Barnes, Jr., of the consequences of the failure to file appellant's brief on appeal. Although he was advised that his request to set aside that order had to be presented as a motion rather than a letter, counsel took no formal action. Subsequently, this appeal was dismissed on September 23, 2005, for failure to file the brief. The dismissal order cited MCR 7.217, under which a motion for reinstatement would have been due within 21 days on October 14, 2005. MCR 7.217(D)(1). A nonconforming motion for delayed filing of brief was untimely filed on November 18, 2005, and it was returned to counsel on November 28, 2005, with a letter stating that a motion to reinstate the appeal was required. Counsel's motion to reinstate was subsequently filed more than two months later on February 14, 2006, without adequate explanation for the substantial delay.

The untimely request to vacate the costs assessed on September 9, 2005, is **DENIED** and the costs are affirmed. The Clerk's Office is directed to submit this matter for issuance of an order to show cause if the costs are not paid to the Clerk of this Court within 21 days of the certification of this order.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

March 13, 2006  
Date

Sandra Schultz Mengel  
Chief Clerk